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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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06/05/2001

Shell S. Simpson

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5716

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11/20/2006

HEWLETT-PACKARD COMPANY

Intellectual Property Administration

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EXAMINER

LIN, KENNY S

ART UNIT

PAPER NUMBER

2152

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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/873,183  
Filing Date: June 05, 2001  
Appellant(s): SIMPSON ET AL.

**MAILED**

**NOV 20 2006**

**Technology Center 2100**

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Nathan Rieth  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 8/17/2006 appealing from the Office action mailed 1/20/2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,618,742	Krum	9-2003
5,619,649	Kovnat	4-1997
2002/0078130	Thornton et al.	6-2002

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2002/0113989	Ferlitsch et al.	8-2002
6,687,834	Morales, Jr. et al.	2-2004

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 101***

1. Claim 23 is rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility. A computer-readable medium such as a carrier wave is not tangible by itself. Therefore it is inoperative.

***Claim Rejections - 35 USC § 103***

2. Claims 1-4, 6-7, 13-16 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krum, US 6,618,742, in view of Kovnat et al (Hereinafter Kovnat), US 5,619,649.

3. As per claim 1, Krum taught the invention substantially as claimed including an apparatus that controls tasks in a multi-tasking computer network, comprising:

a. A job ticket service, being configured to:

i. Function as a centralized service for controlling access to original job tickets where a job ticket is configured to define a job including one or more tasks to be performed and (abstract, col.2, lines 44-52, col.4, lines 40-54, 58-67, col.5, lines 1-3, 20-26, 50-59) includes a job ticket reference (col.5, lines 50-59: indication of the job);

- ii. Receiving status updates from task processors that are responsible for performing a task from an original job ticket where the task is associated to the job ticket reference (col.5, lines 47-61: retrieves statistical information on the execution of jobs from the farm system and then updates the job statistics database; update status component... provides update information on the progress of the jobs); and
- iii. Update the original job ticket associated with the job ticket reference based on the status update, such that the job ticket service controls modification of the original job ticket (col.5, lines 47-61: retrieves statistical information on the execution of jobs from the farm system and then updates the job statistics database; update status component... provides update information on the progress of the jobs); and
- iv. a work flow controller (e.g. distribute jobs components) configured to separately assign the one or more tasks from a single original job ticket to selected task processors (col.4, lines 58-67, col.5, lines 1-3, 38-47) by distributing a job ticket reference to each task processor that identifies the single original job ticket and the job ticket service (col.5, lines 50-59: indication of the job).

4. Krum did not specifically teach to distribute a ticket copy of the single original job ticket and where the selected task processors can include an external service provider. Kovnat taught to comprise a job reference that associates the original job ticket (col.16, lines 9-15, 31-54) and

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to distribute a ticket copy of the single original job ticket to selected task processors where the task processors can include an external service provider (col.17, lines 12-17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Krum and Kovnat because Kovnat's teaching of distributing copy of ticket to remote processors enables Krum's apparatus to send the job ticket to a remote processor's queue for processing.

5. As per claims 13 and 23, Krum taught the invention substantially as claimed including a method for controlling tasks in a multi-tasking network, comprising:

- a. Receiving a job ticket at a job ticket service (abstract, col.2, lines 44-52, col.4, lines 41-54, 61-64, col.5, lines 29-34) having job ticket reference (col.5, lines 50-59: indication of the job);
- b. Controlling access to original job tickets by the job ticket service where a job ticket is configured to define a job including one or more tasks to be performed (abstract, col.2, lines 44-52, col.4, lines 40-54, 58-67, col.5, lines 1-3, 20-26, 50-59);
- c. Receiving status updates from the selected processors relating to an assigned task that are identified by the job ticket reference (col.5, lines 47-61: retrieves statistical information on the execution of jobs from the farm system and then updates the job statistics database; update status component... provides update information on the progress of the jobs); and

- d. Updating the original job ticket associated with the job ticket reference based on the status update, such that the job ticket service controls modification of the original job ticket (col.5, lines 47-61: retrieves statistical information on the execution of jobs from the farm system and then updates the job statistics database; update status component... provides update information on the progress of the jobs);
  - e. assign the one or more tasks from a single original job ticket to selected task processors (col.4, lines 58-67, col.5, lines 1-3, 38-47) by distributing a ticket copy of the single original job ticket and distributing a job ticket reference to each task processor that identifies the single original job ticket and the job ticket service (col.5, lines 50-59: indication of the job).
6. Krum did not specifically teach to creating a reference to the job ticket service; to store the job ticket reference; and to distribute a ticket copy of the single original job ticket and where the selected task processors can include an external service provider. Kovnat taught to comprise a reference that correlates the original job ticket to the job ticket service (col.9, lines 22-26); storing a job reference that is associated with the original job ticket (col.16, lines 9-15, 31-54); and to distribute a ticket copy of the single original job ticket to selected task processors where the task processors can include an external service provider (col.17, lines 12-17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Krum and Kovnat because Kovnat's teaching of distributing copy of ticket to remote processors enables Krum's apparatus to send the job ticket to a remote processor's queue for

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processing. Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Krum and Kovnat because Kovnat's teaching of using reference to correlates the job ticket service enables Krum's apparatus to pinpoint a particular service of a particular job.

7. As per claim 2, Krum and Kovnat taught the invention substantially as claimed in claim

1. Krum further taught the apparatus to comprise: a job ticket storage for maintaining the original job tickets (col.5, line 22, lines 34-36: job database).

8. As per claim 3, Krum and Kovnat taught the invention substantially as claimed in claim

2. Krum further taught that the job ticket service is configured to allow the selected task processors to access the original job tickets using the job ticket reference (col.5, lines 56-59).

9. As per claim 4, Krum and Kovnat taught the invention substantially as claimed in claim

1. Kovnat further taught that the job ticket service limits access to the job ticket to a portion of the job ticket (col.16, lines 47-55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Krum and Kovnat because Kovnat's teaching of limiting access to portion of the original job ticket enforce Krum's apparatus to provide a secure and managed processing method for processing the tasks.

10. As per claim 6, Krum and Kovnat taught the invention substantially as claimed in claim

1. Kovnat further taught that a job ticket reference is configured to be passed between multiple



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task processors to allow access to at least a portion of a corresponding original job ticket (fig.1, 18, 20, fig.15, 400, 402, 404; col.16, lines 45-55, 65-66; from 404 to 400). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Krum and Kovnat because Kovnat's teaching of passing job ticket reference between multiple task processors enables Krum's apparatus to allow multiple task processors to process the tasks of the original job ticket.

11. As per claim 7, Krum and Kovnat taught the invention substantially as claimed in claim 1. Kovnat further taught to comprise a job store that stores job content (fig.15, 417; col.15, lines 44-49), and wherein an original job ticket comprises: a service identification that correlates the original job ticket to the job ticket service (col.9, lines 22-26); a job identification that correlates the original job ticket to the job content (col.16, lines 9-15, 31-54); and a control module that includes parameters that define processes required to complete a task (col.16, lines 55-67, col.17, lines 1-4, 12-13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Krum and Kovnat because Kovnat's teaching of using service identification enables Krum's apparatus to pinpoint a particular service of a particular job.

12. As per claim 14, Krum and Kovnat taught the invention substantially as claimed in claim 13. Kovnat further taught to comprise: providing the job ticket reference to a processor in the network (col.16, lines 9-15, 31-54, col.17, lines 12-17); and providing the processor with access to the job ticket based on the job ticket reference (col.16, lines 9-15, 31-54, col.17, lines 12-17).

13. As per claim 15, Krum and Kovnat taught the invention substantially as claimed in claim 14. Kovnat further taught that access to the job ticket is limited to a portion of the job ticket (col.16, lines 47-55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Krum and Kovnat because Kovnat's teaching of limiting access to portion of the original job ticket enforce Krum's method to provide a secure and managed processing method for processing the tasks.

14. As per claim 16, Krum and Kovnat taught the invention substantially as claimed in claim 13. Kovnat further taught to comprise: receiving a job content corresponding to the job ticket (col.5, lines 14-16, col.17, lines 5-10); storing the job content in the network (col.10, lines 17-18, col.17, lines 5-10); and providing the processor access to the job content (col.16, lines 63-66, col.17, lines 3-17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Krum and Kovnat because Kovnat's teaching of using service identification enables Krum's method to pinpoint a particular service of a particular job.

15. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krum and Kovnat as applied to claims 1-4, 6-7 and 13-16 above, and further in view of Thornton et al (hereinafter Thornton), US 2002/0078130.

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16. As per claim 5, Krum and Kovnat taught the invention substantially as claimed in claim 1. Krum and Kovnat did not specifically taught that the job ticket service assigns the one or more tasks from the single original job ticket based on bids received form one or more task processors. Thornton taught to assign tasks based on bids received from the task processors (pp. 0062, 0064). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Krum, Kovnat and Thornton because Thornton's teaching of bidding for the tasks enables Krum and Kovnat's apparatus to selected a better and lower cost service.

17. Claims 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krum and Kovnat as applied to claims 1-4, 6-7 and 13-16 above, and further in view of Ferlitsch et al (Ferlitsch), US 2002/0113989.

18. As per claim 17, Krum and Kovnat taught the invention substantially as claimed in claim 13. Krum and Kovnat did not specifically teach the further comprised limitations claimed in claim 17. Ferlitsch taught a method for controlling task to assign job tasks assigned according to processor capacity, availability, speed or other attributes (pp. 0039, 0057) and select one or more of the plurality of processors to process the job ticket (pp. 0039, 0057). It is obvious that the capability and availability information of each of the plurality of processors must first be obtained (e.g., received) in order to determine the assignment of processors in processing the jobs. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Krum, Kovnat and Ferlitsch because Ferlitsch's teaching of

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assigning tasks according to the processor's ability enables Krum and Kovnat's method to speed up task processing by distributing the tasks to suitable processors (pp. 0038-0039).

19. As per claim 20, Krum, Kovnat and Ferlitsch taught the invention substantially as claimed in claim 17. Krum further taught that the selecting step is completed by an entity submitting the job ticket into the network (col.4, lines 49-51, col.5, lines 29-34).

20. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krum, Kovnat and Ferlitsch as applied to claim 17 above, and further in view of Morales, Jr. et al (Morales), US 6,687,834.

21. As per claim 18, Krum, Kovnat and Ferlitsch taught the invention substantially as claimed in claim 17. Krum further taught to monitor the progress of the job and provide update information (col.5, lines 59-61). Krum, Kovnat and Ferlitsch did not specifically teach to comprise, when each processor of the selected one or more processors completes a process, receiving an update to information in the job ticket. Morales taught to include a work flow manager in managing the processes wherein when a process is completed, a report is being send to present the process result (col.3, lines 13-16). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Krum, Kovnat, Ferlitsch and Morales because Morales' teaching of using a report to inform the result of the process enables the users of Krum, Kovnat and Ferlitsch's method to know when the process of the job is completed.

22. As per claim 19, Krum, Kovnat and Ferlitsch taught the invention substantially as claimed in claim 17. Krum, Kovnat and Ferlitsch did not specifically teach that the selecting step is completed by a work flow controller in the network. Morales taught a work flower manager to manage the processes and select processor for processing (col.3, lines 13-15). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Krum, Kovnat, Ferlitsch and Morales because Morales' teaching of using a work flow manager in managing the selection of processors enables Krum, Kovnat and Ferlitsch's method to select processors for processing when the processors are available.

#### **(10) Response to Argument**

The examiner summarizes the various points raised by the appellant and addresses replies individually.

As per appellant's argued that:

(1) Krum does not teach **"a work flow controller configured to separately assign the one or more tasks from a single original job ticket to selected task processors"**. Krum teaches a master computer that assigns a job to a slave computer. There is no discussion regarding **separately assigning the one or more tasks form a single original job ticket**. In Krum, tasks from a single job ticket are not separately assigned.

In Reply to argument (1): The claim language claimed to separately assign *the one or more tasks* from a single original job ticket. Since the claims express the **OR** condition, the

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reference needs to show only one of either one of the limitations, in which Krum disclosed to separately assign *the one task* from a single original job ticket to selected task processor.

Krum reference disclosed a master computer to receive request to run a job, selects a slave computer to run the job (col.2, lines 50-52: *select a slave computer to run each job*. col.2, line 66, col.3, lines 1-4). Although the claim language and the reference uses two different terms to define tasks of a job ticket, one of ordinary skill in the art would have noted that the term “job” disclosed in Krum reference maps to the term “task” used by the appellant in the claims. Krum’s teaching of distributing **one job** to a selected slave computer for processing the job thereof (col.2, lines 50-52) reads clearly on the claimed limitation of “assign the one task from a single original job ticket to selected task processor”.

The support for Krum’s teaching of assigning one job per request can be found in column 2, line 66 to column 3, line 4:

When the application server system receives a request to run **a job**, it estimates the time at which each slave computer could complete the job. The master computer then assigns the job to the slave computer that can complete the job the soonest

column 5, lines 32-40:

The client may submit a job, which is a combination of an application program and input files, to be run. When the job entry component receives the submission of the job, it may update the jobs database and provide the job to the distribute jobs component. The distribute jobs component is responsible for identifying to which farm system a job should be assigned. The distribute jobs component invokes the identify farm component to identify the farm system to which the job should be assigned.

Furthermore, Krum’s teaching reads on the limitation of “**separately** assign” because if there is only one job to be assigned, it is automatically independently assigned to the selected processor. Therefore, Krum’s disclosed “separately assigning of the one task”.

With these reasons, Krum specifically teach the claimed limitation of “assign the one or more tasks from a single original job ticket to selected task processor”.

(2) Appellant traverse the 35 U.S.C 101 rejection asserting that the programming included in or on a propagation medium (a carrier wave) could be used by a computer. Programming propagated or transmitted from one computer to another computer is every bit as functional and useful as programming read from a compact disc. Even if it is for purposes of argument only, other media listed in the specification are useful and do enable the computer readable medium.

In Reply to argument (2): A computer readable medium such as carrier wave or optical wave for providing computer executable instructions is not tangible since such computer transport medium does not fall into the patentable categories of “process”, “machine”, “manufacture” and “composition of matter”. Furthermore, the transport/propagate medium such as a carrier wave providing instructions is not operable if not received and executed by a computer or system. Therefore, the inoperative of the computer program stored on a computer transport medium lacks utility.

Although appellant’s specification disclosed other media that may be useful and enabling, the claim language “computer readable medium” may be referred to both transport and storage type medium. This render the claim language “computer readable medium” indefinite if one’s interpretation is only a selected portion of what is disclosed in the specification.

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**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

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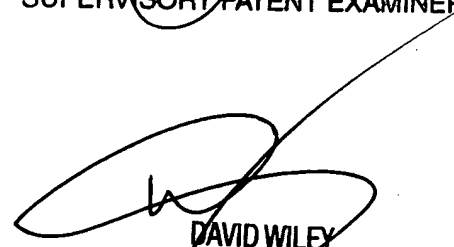
*Kenny Lin.*

Conferees:

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AUG 17 2006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re Application of: Shell S. Simpson et al )	Confirmation No.: 5716
Serial No.: 09/873,183 )	Group Art Unit: 2154
Filed: June 5, 2001 )	Examiner: Kenny S. Lin
For: Job Ticket Service )	Atty. Docket No.: 10005668-1

**APPEAL BRIEF UNDER 37 C.F.R. §41.37**

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Sir:

This Appeal Brief under 37 C.F.R. §41.37 is submitted in support of the Notice of Appeal filed April 18, 2006, responding to the Non-Final Office Action mailed January 20, 2006. The Non-Final Office Action mailed January 20, 2006, which reopened prosecution, is in response to Applicant's Appeal Brief filed on November 4, 2005. Applicant has taken the option of initiating a new appeal by filing a Notice of Appeal under 37 CFR 41.31, followed by the present Appeal Brief under 37 CFR 41.37.

The previously paid Notice of Appeal fee and Appeal Brief fee are applicable to the present Appeal Brief, and it is therefore believed that no fees or extensions of time are required to consider this Appeal Brief. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. §1.136(a), and any fees required therefor are hereby authorized to be charged to Deposit Account No. 08-2025.

Docket No. 10005668-1  
Appeal Brief

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### **I. Real Party in Interest**

The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

### **II. Related Appeals and Interferences**

There are no known related appeals or interferences that will affect or be affected by a decision in this Appeal.

### **III. Status of Claims**

Claims 1-7, 13-20 and 23 stand rejected. Claims 8-12 and 21-22 have been canceled. No claims have been allowed. The rejections of claims 1-7, 13-20 and 23 are appealed.

### **IV. Status of Amendments**

This application was originally filed on June 5, 2001 with twenty-two (22) claims. In "Amendment A", filed February 10, 2005, Applicant amended claims 1-8, 13 and 17, canceled claims 9-12 and 21-22, and added new claim 23. In an "Amendment After Final Rejection (37 CFR 1.116) and Response To Advisory Action", filed July 29, 2005, Applicant amended claims 1, 6, 7, 13 and 23, and canceled claim 8. All of these

amendments have been entered and no other amendments have been made to any of the pending claims. Accordingly, claims 1-7, 13-20 and 23 are the subject of this appeal. The claims in the attached Claims Appendix (see below) reflect the present state of those claims.

#### **V. Summary of Claimed Subject Matter**

The claimed inventions are summarized below with reference numerals and references to the written description ("specification") and drawings. All references are shown in the application at least where indicated herein.

In claim 1, Applicant claims an apparatus that controls tasks in a multi-tasking computer network (20, Fig. 3). Specification, page 5, lines 24-31. In claim 1, the apparatus comprises a job ticket service (60, Fig. 4) configured to function as a centralized service for controlling access to original job tickets (61, Fig. 4) where a job ticket is configured to define a job including one or more tasks to be performed and includes a job ticket reference. Specification, page 7, line 33 to page 8, line 12; page 22, line 29 to page 23, line 22. The job ticket service (60, Fig. 4) is configured to receive status updates from task processors (80, Figs. 3 and 4) that are responsible for performing a task from an original job ticket where the task is associated to the job ticket reference and to update the original job ticket associated with the job ticket reference based on the status update, such that the job ticket service controls modification of the original job ticket. Specification, page 8, line 26 to page 9, line 9; page 22, line 29 to page 23, line 22. In claim 1, the apparatus also comprises work flow controller (70, Fig. 4) configured to separately assign the one or more tasks from a single original job ticket to selected task

processors by distributing a ticket copy of the single original job ticket and distributing the job ticket reference to each selected task processor that identifies the single original job ticket and the job ticket service, where the selected task processors can include an external service provider. Specification, page 9, line 10 to page 10, line 3; page 11, lines 19-26.

In claim 13, Applicant claims a method for controlling tasks in a multi-tasking network (20, Fig. 3), comprising receiving a job ticket at a job ticket service, creating a job ticket reference to the job ticket (72, Fig. 6; 125, Fig. 9), storing the job ticket reference (73, Fig. 6), controlling access to original job tickets (75, 76, Fig. 6; 110, 130, Fig. 9) by the job ticket service where the job ticket is configured to define a job including one or more tasks to be performed, assigning the one or more tasks from a single original job ticket to selected processors (105, 145, Fig. 9) by distributing a ticket copy of the single original job ticket and distributing the job ticket reference (125, Fig. 9) to each selected processor that identifies the single original job ticket and the job ticket service, where the selected processors can include an external service provider, receiving status updates from the selected processors (140, Fig. 9) relating to an assigned task that are identified by the job ticket reference, and updating the original job ticket (77, Fig. 6; 135, Fig. 9) associated with the job ticket reference based on the status update, such that the job ticket service controls modification of the original job ticket. Specification, page 7, line 33 to page 8, line 12; page 22, line 29 to page 23, line 22; page 25, line 31 to page 27, line 32.

In claim 23, Applicant claims a computer-readable medium for providing computer executable instructions for causing a computer to perform a method.

Specification, page 6, line 9 to line 12. In claim 23, the method comprises controlling access (75, 76, Fig. 6; 110, 130, Fig. 9) to original job tickets where a job ticket is configured to define a job including one or more tasks to be performed, assigning different tasks from a single original job ticket to different task processors (105, 145, Fig. 9) by distributing a ticket copy of the single original job ticket and distributing a job ticket reference to each task processor that identifies the single original job ticket and a job ticket service, where the different task processors can include an external service provider, receiving status updates (140, Fig. 9) from the different task processors relating to an assigned task that are identified by the job ticket reference, and updating the original job ticket (77, Fig. 6; 135, Fig. 9) associated with the job ticket reference based on the status update, such that the job ticket service controls modification of the original job ticket.

#### **VI. Grounds of Rejection to be Reviewed on Appeal**

The following grounds of rejection are to be reviewed on appeal:

1. Claims 1-4, 6-7, 13-16 and 23 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Krum ("Krum", U.S. Pat. No. 6,618,742) in view of Kovnat et al. ("Kovnat", U.S. Pat. No. 5,619,649). Applicant respectfully traverses this rejection.

2. Claim 5 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Krum and Kovnat as applied to claims 1-4, 6-7 and 13-16 above, and further in view of

Thornton et al. ("Thornton", U.S. Pub. No. 2002/0078130). Applicant respectfully traverses this rejection.

3. Claims 17 and 20 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Krum and Kovnat as applied to claims 1-4, 6-7 and 13-16 above, and further in view of Ferlitsch et al. ("Ferlitsch", U.S. Pub. No. 2002/0113989). Applicant respectfully traverses this rejection.

4. Claims 18-19 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Krum, Kovnat and Ferlitsch as applied to claim 17 above, and further in view of Morales, Jr. et al. ("Morales", U.S. Pat. No. 6,687,834). Applicant respectfully traverses this rejection.

5. Claim 23 is rejected under 35 U.S.C. 101 as being inoperative and as lacking utility.

## **VII. Arguments**

The Appellant respectfully submits that claims 1-7, 13-20 and 23 are not obvious under 35 U.S.C. § 103(a). Applicant respectfully requests that the Board of Patent Appeals overturn the final rejections of those claims for the reasons discussed below.

### **I. Claim Rejections - 35 U.S.C. § 103(a)**

Claims 1-7, 13-20 and 23 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over various references as noted below. Applicant respectfully traverses the rejections.

As has been acknowledged by the Court of Appeals for the Federal Circuit, the U.S. Patent and Trademark Office ("USPTO") has the burden under section 103 to establish a *prima facie* case of obviousness by showing some objective teaching in the prior art or generally available knowledge of one of ordinary skill in the art that would lead that individual to the claimed invention. *See In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). The Manual of Patent Examining Procedure (MPEP) section 2143 discusses the requirements of a *prima facie* case for obviousness. That section provides as follows:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teaching. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

In the present case, the prior art references, when combined, do not teach or suggest all of Applicant's claim limitations. Applicant discusses the applied references and Applicant's claims in the following.

**A. 103(a) Rejections over Krum, Kovnat, Thornton, Ferlitsch, and Morales**

Claims 1-4, 6-7, 13-16 and 23 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Krum in view of Kovnat. Furthermore, as noted above, claims 5 and 17-20 have been rejected under 35 U.S.C. 103(a) as being unpatentable over various other combinations of the references Krum, Kovnat, Thornton, Ferlitsch, and Morales. Applicant respectfully traverses this rejections.

Krum discloses a system for processing requests to service computational tasks. In Krum, an application server system receives requests to run various jobs, where a job indicates that a certain application program is to be executed with a certain set of input. The application server system includes a master computer and multiple slave computers. The master computer receives requests to run jobs, selects a slave computer to run each job, and then assigns each job to a slave computer selected for that job. The master computer of the application server system receives the requests from client computers that may be connected to the application server system via the Internet. A client-side component of the application server system may execute on the client computers to assist users in submitting their requests. Slave computers may be dynamically added to or removed from the application server system as the demand for computing resources changes. (column 2, lines 44-63).

Kovnat discloses a technique for programming a job with a job ticket in a printing system. In Kovnat, a user accesses a remotely disposed server from an image processing apparatus by entering an appropriate personal identification number and selecting a job ticket from a directory listing the job tickets resident at the server. One of the job tickets is then selected and transmitted across the network from the server to the image processing



apparatus. A job is then programmed at the image processing apparatus with the selected job ticket.

### 1. Claims 1-7

With reference first to Applicant's independent claim 1, Applicant recites (emphasis added):

1. An apparatus that controls tasks in a multi-tasking computer network, comprising:

a job ticket service, being configured to:

function as a centralized service for controlling access to original job tickets where a job ticket is configured to define a job including one or more tasks to be performed and includes a job ticket reference;

receive status updates from task processors that are responsible for performing a task from an original job ticket where the task is associated to the job ticket reference; and

update the original job ticket associated with the job ticket reference based on the status update, such that the job ticket service controls modification of the original job ticket; and

*a work flow controller configured to separately assign the one or more tasks from a single original job ticket to selected task processors by distributing a ticket copy of the single original job ticket and distributing the job ticket reference to each selected task processor that identifies the single original job ticket and the job ticket service, where the selected task processors can include an external service provider.*

In the Office Action, the Examiner argues that Krum teaches "*a work flow controller configured to separately assign the one or more tasks from a single original job ticket to selected task processors*". The Examiner relies on Krum at col. 4, lines 58-67, and col. 5, lines 1-3 and 38-47. However, nowhere in these cited passages, or anywhere else in Krum, is there a discussion or teaching of "*a work flow controller configured to separately assign the one or more tasks from a single original job ticket to selected task processors*" as recited in Applicant's claim 1. Rather, Krum teaches the submission of jobs that are assigned to and run entirely by an identified slave computer (farm system). For example, at col. 4, lines 58-67, and column 5, lines 1-3, Krum recites the following (emphasis added):

The application server system includes a master farmer system 103, farm systems 104, and a data store 105, which are connected via communications link 107. The master farmer system (e.g., a master computer) receives *requests to submit jobs* from clients, identifies a farm system (e.g., slave computer) *to run the job*, and instructs the identified farm system *to run the job*. When a farm system receives an instruction *to run a job*, it queues *the job* until an instance of the application program is available *to run that job*. When *the job* runs, it retrieves input data from and stores output data in the data store. The data store may be a file system, database management system, or other storage system.

Here, Krum teaches a master computer that assigns a job to a slave computer. The slave computer runs the job. There is simply no discussion whatever regarding *separately*

*assigning the one or more tasks from a single original job ticket* as recited in Applicant's claim. In Krum, tasks from a single job ticket are not separately assigned.

The Examiner further relies on Krum at col. 5, lines 38-47, which recites as follows (emphasis added):

The distribute jobs component invokes the identify farm component *to identify the farm system to which the job should be assigned*. The identify farm component may select a farm system based on characteristics (e.g., size) of the job and statistics in the job statistics database that relate to the similar jobs or may rely on information provided by the slave computers. Once the identify farm component selects a farm system, the distribute jobs component *notifies the identified farm system that the job has been assigned to it*.

As in the previous passage, here Krum also discusses a distribute jobs component of the master farm system (i.e., master computer) that assigns a job to a slave computer (the farm system). The slave computer runs the job. Again, there is no discussion whatever regarding *separately assigning the one or more tasks from a single original job ticket* as recited in Applicant's claim. In Krum, tasks from a single job ticket are not separately assigned.

For at least these reasons, it is clear that Krum does not teach the elements of Applicant's claim 1.

Kovnat is cited for its purported teaching of distributing a ticket copy of the single original job ticket to selected task processors where the selected task processors can include an external service provider, and not for teaching "*a work flow controller configured to separately assign the one or more tasks from a single original job ticket*

*to selected task processors*". Furthermore, a review of Kovnat reveals that there is no such teaching in Kovnat. Accordingly, Kovnat does not cure the deficiencies of Krum noted above.

Therefore, the combination of Krum and Kovnat fails to teach the elements of Applicant's claim 1. Thus, a *prima facie* case of obviousness is not supported, and the rejection of claim 1 should be removed.

As just noted, the combination of Krum and Kovnat fails to teach all the elements of Applicant's claim 1. Furthermore, a review of the additionally cited references, Thornton, Ferlitsch, and Morales, reveals that these references likewise fail to cure the deficiencies noted above with Krum and Kovnat. Moreover, these additional references are not cited as teaching such elements of Applicant's claim 1.

Accordingly, the combination of all cited references, Krum, Kovnat, Thornton, Ferlitsch, and Morales, fails to teach the elements of Applicant's claim 1. Therefore, a *prima facie* case of obviousness is not supported and the rejection of claim 1 should be removed.

Given that the combination of Krum, Kovnat, Thornton, Ferlitsch, and Morales, does not render claim 1 obvious, it follows that such combination likewise does not render obvious, claims 2-7, which depend from claim 1 and incorporate all of the limitations of claim 1. Accordingly, claims 2-7 are also allowable over the combination of these references for at least this reason.

In view of the above, Applicant respectfully submits that claims 1-7 are allowable over Krum, Kovnat, Thornton, Ferlitsch, and Morales. Applicant therefore respectfully requests that the rejection as to claims 1-7 be withdrawn.

## 2. Claims 13-20

With reference first to Applicant's independent claim 13, Applicant recites (emphasis added):

13. A method for controlling tasks in a multi-tasking network, comprising:

receiving a job ticket at a job ticket service;  
creating a job ticket reference to the job ticket;  
storing the job ticket reference;

controlling access to original job tickets by the job ticket service where the job ticket is configured to define a job including one or more tasks to be performed;

*assigning the one or more tasks from a single original job ticket to selected processors by distributing a ticket copy of the single original job ticket and distributing the job ticket reference to each selected processor that identifies the single original job ticket and the job ticket service, where the selected processors can include an external service provider;*

receiving status updates from the selected processors relating to an assigned task that are identified by the job ticket reference; and

updating the original job ticket associated with the job ticket reference based on the status update, such that the job ticket service controls modification of the original job ticket.

Regarding independent claim 13, Applicant asserts that neither Krum nor Kovnat teach or suggest at least the elements of "assigning the one or more tasks from a single original job ticket to selected processors by distributing a ticket copy of the single original job ticket and distributing the job ticket reference to each selected processor that

identifies the single original job ticket and the job ticket service . . .", as is required by independent claim 13. Appellant refers back to the discussions provided in the foregoing. At least because of those reasons already discussed, claim 13 is allowable over Krum and Kovnat.

Furthermore, as discussed above, the additional references of Thornton, Ferlitsch, and Morales, fail to cure the deficiencies noted above with Krum and Kovnat. Moreover, the Examiner does not cite the additional references of Thornton, Ferlitsch, and Morales as teaching such elements of Applicant's claim 13.

Accordingly, the combination of all cited references, Krum Kovnat, Thornton, Ferlitsch, and Morales, fails to teach the elements of Applicant's claim 13. Therefore, a *prima facie* case of obviousness is not supported and the rejection of claim 13 should be removed.

In addition, because the combination of Krum, Kovnat, Thornton, Ferlitsch, and Morales, does not render claim 13 obvious, it follows that such combination likewise does not render obvious claims 14-20, which depend from claim 13 and incorporate all of the limitations of claim 13. Claims 14-20 are therefore allowable over the combination of these references for at least this reason.

In view of the above, Applicant respectfully submits that claims 13-20 are allowable over Krum, Kovnat, Thornton, Ferlitsch, and Morales. Applicant therefore respectfully requests that the rejection as to claims 13-20 be withdrawn.

### 3. Claim 23

With reference first to Applicant's independent claim 13, Applicant recites (emphasis added):

23. A computer-readable medium for providing computer executable instructions for causing a computer to perform a method, the method comprising:

controlling access to original job tickets where a job ticket is configured to define a job including one or more tasks to be performed;

*assigning different tasks from a single original job ticket to different task processors by distributing a ticket copy of the single original job ticket and distributing a job ticket reference to each task processor that identifies the single original job ticket and a job ticket service, where the different task processors can include an external service provider;*

receiving status updates from the different task processors relating to an assigned task that are identified by the job ticket reference; and

updating the original job ticket associated with the job ticket reference based on the status update, such that the job ticket service controls modification of the original job ticket.

Regarding independent claim 23, Applicant asserts that neither Krum nor Kovnat teach or suggest at least the elements of "assigning different tasks from a single original job ticket to different task processors by distributing a ticket copy of the single original job ticket and distributing a job ticket reference to each task processor that identifies the single original job ticket and a job ticket service . . .", as is required by independent claim 23. Appellant refers back to the discussions provided in the foregoing. At least because of those reasons already discussed, claim 23 is allowable over Krum and Kovnat.

Furthermore, as discussed above, the additional references of Thornton, Ferlitsch, and Morales, fail to cure the deficiencies noted above with Krum and Kovnat. Moreover, the Examiner does not cite the additional references of Thornton, Ferlitsch, and Morales as teaching such elements of Applicant's claim 23.

Accordingly, the combination of all cited references, Krum Kovnat, Thornton, Ferlitsch, and Morales, fails to teach the elements of Applicant's claim 23. Therefore, a *prima facie* case of obviousness is not supported and the rejection of claim 23 should be removed.

## II. Claim Rejection - 35 U.S.C. § 101

Claim 23 is rejected under 35 U.S.C. 101 as being inoperative and as lacking utility.

Applicant respectfully traverses the rejections.

Regarding claim 23, the Examiner (page 2) states as follows:

Claim 23 is rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility. A computer-readable medium such as a carrier wave is not tangible by itself. Therefore it is inoperative.

The Examiner is apparently asserting that a computer could not use the programming included in or on a propagation medium (a carrier wave). First of all, this is not accurate. Programming "propagated" or "transmitted" from one computer to another computer, over the Internet for example, is every bit as functional and useful as programming read from a compact disc.



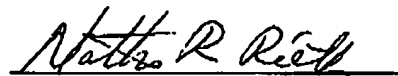
Secondly, even if it is assumed for purposes of argument only, and without conceding, that a propagation medium is not useful under Section 101 or it does not enable the computer readable medium of Claim 23 under Section 112, other media listed in Applicant's Specification (e.g., see Specification, page 15, lines 1-5) are useful and do enable the computer readable medium of Claim 23. The Examiner has not, as yet, cited to any authority supporting the novel proposition that describing a non-useful or non-enabling feature somehow cancels out the description of several useful and enabling features. Absent such a showing, the rejection cannot stand.

#### **VIII. Conclusion**

In summary, it is Applicant's position that Applicant's claims are patentable over the applied prior art references and that the rejection of these claims should be withdrawn. Appellant therefore respectfully requests that the Board of Appeals overturn the Examiner's rejection and allow Applicant's pending claims.

Respectfully submitted,


By:



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Terri Walker

**Claims Appendix under 37 C.F.R. §41.37(c)(1)(viii)**

The following are the claims that are involved in this Appeal.

1. An apparatus that controls tasks in a multi-tasking computer network, comprising:

a job ticket service, being configured to:

function as a centralized service for controlling access to original job tickets where a job ticket is configured to define a job including one or more tasks to be performed and includes a job ticket reference;

receive status updates from task processors that are responsible for performing a task from an original job ticket where the task is associated to the job ticket reference; and

update the original job ticket associated with the job ticket reference based on the status update, such that the job ticket service controls modification of the original job ticket; and

a work flow controller configured to separately assign the one or more tasks from a single original job ticket to selected task processors by distributing a ticket copy of the single original job ticket and distributing the job ticket reference to each selected task processor that identifies the single original job ticket and the job ticket service, where the selected task processors can include an external service provider.

2. The apparatus of claim 1, further comprising:

a job ticket storage for maintaining the original job tickets.

3. The apparatus of claim 2, wherein the job ticket service is configured to allow the selected task processors to access to the original job tickets using the job ticket reference.

4. The apparatus of claim 1, wherein the job ticket service is configured to limit access to the original job ticket by a selected task processor to a portion of the original job ticket and prohibits access to other portions of the original job ticket.

5. The apparatus of claim 1 wherein the job ticket service assigns the one or more tasks from the single original job ticket based on bids received from one or more task processors.

6. The apparatus of claim 1, wherein the job ticket reference is configured to be passed between multiple task processors to allow access to at least a portion of a corresponding original job ticket.

7. The apparatus of claim 1, further comprising a job store that stores job content, and wherein the original job ticket comprises:

a service identification that correlates the original job ticket to the job ticket service;

a job identification that correlates the original job ticket to the job content; and

a control module that includes parameters that define processes required to complete a task.

13. A method for controlling tasks in a multi-tasking network, comprising:

- receiving a job ticket at a job ticket service;
- creating a job ticket reference to the job ticket;
- storing the job ticket reference;
- controlling access to original job tickets by the job ticket service where the job ticket is configured to define a job including one or more tasks to be performed;
- assigning the one or more tasks from a single original job ticket to selected processors by distributing a ticket copy of the single original job ticket and distributing the job ticket reference to each selected processor that identifies the single original job ticket and the job ticket service, where the selected processors can include an external service provider;
- receiving status updates from the selected processors relating to an assigned task that are identified by the job ticket reference; and
- updating the original job ticket associated with the job ticket reference based on the status update, such that the job ticket service controls modification of the original job ticket.

14. The method of claim 13, further comprising:

- providing the job ticket reference to a processor in the network; and

providing the processor with access to the job ticket based on the job ticket reference.

15. The method of claim 14, wherein access to the job ticket is limited to a portion of the job ticket.

16. The method of claim 13, further comprising:  
receiving a job content corresponding to the job ticket;  
storing the job content in the network; and  
providing the processor access to the job content.

17. The method of claim 13, further comprising:  
receiving a capability of a plurality of processors;  
receiving an availability of each of the plurality of processors; and  
selecting one or more of the plurality of processors to process the job ticket.

18. The method of claim 17, further comprising, when each processor of the selected one or more processors completes a process, receiving an update to information in the job ticket.

19. The method of claim 17, wherein the selecting step is completed by a work flow controller in the network.

20. The method of claim 17, wherein the selecting step is completed by an entity submitting the job ticket into the network.

23. A computer-readable medium for providing computer executable instructions for causing a computer to perform a method, the method comprising:

controlling access to original job tickets where a job ticket is configured to define a job including one or more tasks to be performed;

assigning different tasks from a single original job ticket to different task processors by distributing a ticket copy of the single original job ticket and distributing a job ticket reference to each task processor that identifies the single original job ticket and a job ticket service, where the different task processors can include an external service provider;

receiving status updates from the different task processors relating to an assigned task that are identified by the job ticket reference; and

updating the original job ticket associated with the job ticket reference based on the status update, such that the job ticket service controls modification of the original job ticket.

**Evidence Appendix under 37 C.F.R. §41.37(c)(1)(ix)**

There is no extrinsic evidence to be considered in this Appeal. Therefore, no evidence is presented in this Appendix.

**Related Proceedings Appendix under 37 C.F.R. §41.37(c)(1)(x)**

There are no related proceedings to be considered in this Appeal. Therefore, no such proceedings are identified in this Appendix.